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June 16, 2015

VIA ECF

Hon. Andrew J. Peck, U.S.M.J.
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Courtroom 20D
New York, New York 10007

Re: *Rio Tinto plc v. Vale S.A., et al.*, Civil Action No. 14-cv-3042 (RMB) (AJP) (S.D.N.Y.)

Dear Judge Peck:

It is ironic that Rio Tinto, having prematurely gone to the Court, now accuses Vale of prematurely going to the Court. Without burdening the Court right now with all of the details regarding Rio Tinto's defaults on predictive coding and the manner in which it has vexatiously increased costs for Vale, we respectfully request that the Court make a jury room available for the parties with their experts to meet on predictive coding. We hope that meeting in person at the Courthouse will eliminate needless disputes between the parties. If there are such disputes, we would request the opportunity to bring them to the Court so that more time is not wasted by Rio Tinto.

For the record, we would also like to briefly clear up several mischaracterizations contained in Rio Tinto's letter[1]:

- Vale was providing updates to Rio Tinto about the status of its Training Set production, including most recently by email on the evening of Friday, June 12, one business day before Rio Tinto ran to the Court. An email response from Rio

[1] We also take this opportunity to correct an error that we discovered on page two of the letter we filed this morning (Dk. 272), which states that Rio Tinto's recent disclosures reveal an estimate of responsive documents excluded by its predictive coding process that is "25 times or more" greater than Rio Tinto has claimed. The letter should read "5 times or more." We apologize for this error.

Tinto to that email asking for a further update would have avoided this unnecessary letter-writing.

- Your Honor did not reject Vale's objections to Rio Tinto's failure to train on the four key issues we raised at the last conference, but instead "agree[d] there needs to be an appropriate number of training document[s] for each subset" of issues, and explicitly left open the possibility of "additional training documents" used to "retrain and restabilize the system" if the inclusion of "synthetic documents" did not address the problem. 5/28/15 Tr. 7, 8, 12. Our proposal sought speedy resolution to Vale's objections now rather than letting this issue fester only to require more cumbersome resolution after the June 30 production deadline.

- Rio Tinto has not shown "more than enough" documents to train the system on the four issues identified by Vale; of the 97 it claimed as responsive, only 11 actually pertain to those issues, with the remainder arguably responsive to Vale's document requests generally, but not with respect to the issues Vale identified.

- Your Honor did not reject Vale's use of search terms, but instead recognized that the parties had "entered into a protocol . . . that included some keyword searching," and that Rio Tinto was "stuck with what you've agreed to." 4/8/15 Tr. 12:5-10. Rio Tinto's additional search terms were not valuable; after the parties' meet and confers, only a single document taken from more than 300,000 documents added to the Document Universe was changed from not responsive to responsive.

- As Vale's request above shows, it has no problem including experts in discussions where their participation would be useful. The 6/11-12 email exchange that Rio Tinto selectively quoted but did not provide (and which Vale attaches as Exhibit A) concerned a complaint by Rio Tinto that was both untimely and that had been fully addressed by Vale's written response.

We welcome the opportunity to re-start discussions with Rio Tinto on how to address the methodological problems we have identified with its predictive coding process, and feel that doing so under the Court's supervision offers the best chance for making those discussions productive.

Respectfully submitted,

/s/ Lewis J. Liman
Lewis J. Liman

cc: All counsel of record (via ECF)